



the Court's Order. *See* Order at 2 ("If the parties cannot agree to a mediator, the provisions of Local Rule 16.4(o) shall apply, with the exception that the parties may propose mediators that are not on the Court's approved list of mediators.").

**Plaintiffs' Separate Statement:** Plaintiffs are available to mediate in January 2023, and are willing to do so if the Court grants the parties leave to conduct the first mediation past the deadline of December 25, 2022. Plaintiffs are agreeable to mediating with Mr. Wulff and Judge Gandhi, whom Broadcom and Brocade proposed. Mr. Wulff is potentially available to mediate on December 14 and 22, and is currently availability on January 4 and 25. Judge Gandhi is currently available on January 19-20, 24-27, and 31. If the Court permits mediation to occur past the ordered deadline, Plaintiff respectfully requests the Court to order the mediation to take place in-person, in Tennessee, in January (not at some later date).

Plaintiffs are also available to mediate at any date before the December 25 deadline for the mediation to occur, as is Extreme, and Plaintiffs would prefer to mediate within that timeframe if possible. Extreme is amenable to splitting the mediation sessions so that Extreme and Plaintiffs can at least mediate before the December 25 deadline. Plaintiffs are also amenable to this approach whereby Plaintiffs and Extreme would mediate by December 25, 2022, and Plaintiffs and Broadcom/Brocade would mediate by January 2023.

In accordance with the Court's Order, Plaintiffs have three mediators to propose to the Court who are available prior to the December 25, 2022 deadline. Plaintiffs propose that all parties submit each respective party's three proposed mediators to the Court Clerk tomorrow, with the Court's permission. Two of Plaintiffs' proposed mediators are available to mediate in-person in the Eastern District of Tennessee. Plaintiffs strongly prefer an in-person mediation in Tennessee, where this action was filed and was ordered to remain. Moreover, Plaintiffs' client representative, Dr. Jeffrey Case, is

not traveling by plane during the winter months, but is able to drive to an in-person mediation (which he will attend). If the mediation is in person, then Dr. Case should attend in person as well, rather than remotely as Broadcom and Brocade propose.

Extreme has proposed two additional mediators today. One is unavailable, and Plaintiffs are still conducting their due diligence on the other proposed mediator, including whether he is willing to conduct an in-person mediation in Tennessee.

**Extreme's Separate Statement:** Extreme appreciates that counsel for all parties have been communicating regularly in an effort to schedule this mediation and the understandable problems associated with trying to align the mediator preferences of multiple different parties and law firms, and the calendars of a large group of busy individuals.

Extreme remains committed to mediating this dispute between all parties and counsel before the end of the year, in compliance with the Court's Order, if that is feasible. If that is not feasible—and that appears to be the case—Extreme has no objection to (i) mediating with Plaintiffs, but without Broadcom and Brocade, prior to December 25, 2022; or (ii) mediating with all parties present in early 2023.

As noted above, Extreme is willing to mediate before Randy Wulff and Judge Gandhi on any available dates, in 2022 or early 2023. Extreme is also willing to continue to meet and confer with all parties to seek additional mediator candidates. Extreme is also willing to submit mediator proposals to the Administrator, if the Court prefers. Finally, Extreme does not believe it useful for any party to insist (nor for the Court to order at this time) any specific location for the mediation session. Once some or all parties can agree on a specific mediator, on an available date, Extreme will be reasonable on selecting the location.

Extreme is at the pleasure of the Court to appear at a short telephonic hearing on these topics, should the Court find that useful.

**Broadcom and Brocade's Separate Statement:** As indicated above, lead counsel for Broadcom and Brocade has a trial scheduled in Oregon from November 15, 2022 through at least December 21, 2022, and will be in Oregon for pre-trial work beginning on November 7, 2022 (and perhaps earlier). The trial date will not be postponed. Due to the trial conflict (including pre-trial deadlines) and mediator unavailability, Broadcom and Brocade request that the Court grant leave to conduct the first mediation in January 2023. Broadcom and Brocade believe it would be more efficient and productive, and require fewer filings, for all parties to mediate together at the same time rather than hold separate mediations. As of the date of this notice, Broadcom and Brocade understand that Hon. Jay Gandhi, Ret.—a mediator the parties have agreed to—has availability on January 19, 20, 24-27, and 31. If those dates do not work for Plaintiffs and Extreme, Broadcom and Brocade will work with them to find other mutually agreeable dates.

Subject to mediator preference and ability to travel, Broadcom and Brocade prefer an in-person mediation in California given that counsel for all three parties are located in California, two of the three parties are located in California, and the representatives for Broadcom and Brocade who are likely to attend the mediation are located in California. Broadcom and Brocade have no objection to Plaintiffs' client representative, Dr. Case, attending the mediation via Zoom if he prefers not to travel by plane during the winter months.

Respectfully submitted this 17th day of October, 2022.

/s/ John L. Wood

John L. Wood, Esq. (BPR #027642)  
Cheryl G. Rice, Esq. (BPR #021145)  
Rameen J. Nasrollahi, Esq. (BPR #033458)  
EGERTON, McAFEE, ARMISTEAD  
& DAVIS, P.C.  
900 S. Gay Street, Suite 1400  
P.O. Box 2047  
Knoxville, TN 37902  
(865) 546-0500 (phone)  
(865) 525-5293 (facsimile)  
jwood@emlaw.com  
crice@emlaw.com  
rnasrollahi@emlaw.com

Morgan Chu (CA Bar. No. 70446)  
David Nimmer (CA Bar. No. 97170)  
A. Matthew Ashley (CA Bar. No. 198235)  
Olivia L. Weber (CA Bar. No. 319918)  
IRELL & MANELLA LLP  
1800 Avenue of the Stars, Suite 900  
Los Angeles, California 90067-4276  
(310) 277-1010 (phone)  
(310) 203-7199 (facsimile)  
mchu@irell.com  
dnimmer@irell.com  
mashley@irell.com  
oweber@irell.com  
*Attorneys for Plaintiffs*  
*SNMP RESEARCH INTERNATIONAL, INC. and*  
*SNMP RESEARCH, INC.*

/s/ Alison Plessman

Alison Plessman (CA Bar No.250631)  
HUESTON HENNIGAN LLP

*Attorneys for Defendants*  
*Broadcom, Inc.*  
*Brocade Communications Systems LLC*

/s/ John M. Neukom

John M. Neukom (CA Bar No. 275887)  
DEBEVOISE & PLIMPTON LLP  
650 California Street  
San Francisco, California 94108  
jneukom@debevoise.com (415) 738-5700

Leslie A. Demers (NY Bar No. 5261904)  
One Manhattan West  
New York, New York 10001  
(212) 735-3000  
leslie.demers@skadden.com

*Attorneys for Defendant Extreme Networks, Inc.*

